

At the status conference, the parties discussed what documents would potentially result from this phase of the Docket. They proposed, and I agreed, that it would be useful to have one

comprehensive document that describes the entire EEU program structure. This document would reflect all Board decisions regarding the EEU program, and would be a "living document" that would be revised in the future if the Board made further changes to the program. A starting point for this document is likely to be one of the three "Draft Recommendation" documents that are already in evidence in this proceeding.

In addition, the Board directed me to propose a draft Order of Appointment. Parties discussed that this document should include the responsibilities of the appointee, and may refer to the comprehensive document, but should not include other entities' responsibilities related to the EEU. In addition, if the results of the Initial Overall Performance Assessments ("Initial OPAs") indicate that BED should continue to deliver EEU services in its service territory, it is likely that there will need to be more than one draft Orders of Appointment, one for each EEU. In this situation, the Order of Appointment for BED would be somewhat different from the Order of Appointment for the statewide entity because of BED's status as a regulated electric utility. Possible models for an Order of Appointment include the Board's original Order authorizing BED to deliver EEU services in its service territory, and certificates of public good issued to companies providing cable television service.

Also at the status conference, the DPS proposed a schedule for this phase of the Docket. After discussion among the parties, minor modifications were made to the schedule, which I then adopted. This schedule provides for three parallel tracks which can be conducted simultaneously, although the timing of certain steps in the different tracks are related. The parties acknowledged that this is an ambitious schedule, and that it is possible some of the dates may slide. In particular, the schedule assumes that the DPS will hire a consultant who already has information about other jurisdictions to perform the Benchmarking Study. If this assumption is incorrect and the consultant needs to collect this information, the consultant will likely need additional time to prepare the draft report, and other items in the schedule will need to be

adjusted accordingly. In order to show the relationships among the three tracks, the revised schedule which I adopted is attached to this Order as Attachment A.¹

The parties noted that one of the first steps in the track labeled "Initial OPAs" is notice to the public soliciting comments on what the Initial OPA process should include. At the status conference the parties proposed, and I agreed, that this should include notice to the EEU e-mail service list and postings on the Board and DPS websites. Once the Initial OPA process begins, there will be a further opportunity for the public to comment on the substantive matters reviewed by the Initial OPAs. Ideally, notice of this opportunity will be provided in customers' electric bills. How this notice will be provided will be discussed further at the January 22, 2010, workshop on the Initial OPA process.²

Also at the status conference, the parties discussed the process for addressing the substantive issues in the track labeled "Phase 2 Issue Resolution." The parties agreed that not all parties needed to be involved in the initial discussions of each issue, although any party is welcome to participate if it chooses to. The parties involved in the initial discussions on an issue will draft a recommended resolution for consideration by all parties in the Docket. The parties agreed to the following division of issues:

Group A (initially discussed by DPS, VEIC, BED and CA):

- issues associated with the possible start date of an initial Order of Appointment;
- if an EEU's appointment is revoked because the EEU has materially breached the terms of its appointment or because of bankruptcy, whether a period of advance notice should be required, and if so, what that period of time should be;

1. I have changed a few dates that fell on weekends or holidays. In addition, I note that Attachment A also shows a schedule for the Demand Resources Plan Proceeding for 2012-2022. That proceeding will not be part of this Docket, but the schedule for that proceeding is related to the transition of the EEU to an Order of Appointment model. At the status conference the parties discussed, and agreed to, the schedule for the Demand Resources Plan Proceeding that was proposed by the DPS and is shown in Attachment A. However, I do not have the authority to adopt a schedule for that separate proceeding. Therefore, I will bring the parties' agreement to the Board's attention for its consideration.

2. The specific date for the workshop was picked after the status conference from among the dates proposed by the parties.

- clarification regarding whether one statewide Demand Resources Plan will be prepared, or whether each appointed EEU (if there are more than one) will prepare a separate Demand Resources Plan;
- the threshold amount of additional funding acquired by an EEU that would require the Board to examine, on a case-by-case basis, whether Energy Efficiency Charge collections should be adjusted to reflect the additional funding;³
- the threshold amount of additional funding acquired by an EEU that would require the Board to examine, on a case-by-case basis, whether an EEU's goals should be adjusted, new performance indicators developed, or programmatic changes made; and
- which functions currently performed by the Contract Administrator should continue, and which entities should be assigned those functions (the role of mediator shall not be included in the potential functions to be assigned to other entities).

Group B (initially discussed by DPS, VEIC, BED, CA, CVPS and GMP):

- an EEU's role with respect to geographically targeted programs;
- the guidelines attached to the 2009 Draft Recommendation regarding the EEU's role in combined-heat-and-power projects, including consideration of the appropriateness of the risk adjustment contained therein;
- the development of proposed guidelines regarding an EEU's responsibilities regarding demand response;
- consideration of whether an EEU should consider both electro- and non-electro-technologies when assessing the cost-effectiveness of consumer end uses; and
- the concept and details of the Demand Resources Plan.

Group C (initially assigned to Board staff):

- issues associated with making an appropriate level of customer-specific information concerning projects publicly available while protecting competitively sensitive information, including what level of detail is appropriate to make publicly available, and what information regarding this issue should be included in an Order of Appointment.

With respect to the issues assigned to Board staff, the parties stated they believe the issues are ripe for Board resolution, and that further discussions among the parties are not likely

3. The members of Group A stated they intend to expressly invite AIV to participate in discussions of this item because AIV has previously expressed a strong interest in this topic.

to be productive. IBM agreed to file some examples of the type of information it would like to have made publicly available. In addition, VEIC agreed to file the form it sends to each customer asking if information about the project(s) can be made public, and the approximate percentage of customers who have allowed VEIC to disclose project-specific information.

NOTICE OF WORKSHOP

I will conduct a workshop commencing at 9:30 a.m. on Friday, January 22, 2010, at the Public Service Board Hearing Room, Third Floor, Chittenden Bank Building, 112 State Street, Montpelier, Vermont. The purpose of the workshop will be to discuss the criteria and process to be used to conduct the Initial OPAs required by the Board's November 24, 2009, Order in this proceeding.

SO ORDERED.

Dated at Montpelier, Vermont, this 31st day of December, 2009.

s/ Ann Bishop

Ann Bishop
Hearing Officer

OFFICE OF THE CLERK

FILED: January 5, 2010

ATTEST: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)